

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FRANKLIN ARNOLD,

Defendant-Appellant.

UNPUBLISHED

August 28, 2001

No. 225864

Wayne Circuit Court

LC No. 99-002310

Before: Fitzgerald, P.J., and Gage and C. H. Miel*, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of felonious assault, MCL 750.82, and possession of a firearm during the commission of a felony, MCL 750.227b. He was sentenced to a prison term of four months to four years for the assault conviction and to a consecutive two-year term for the felony-firearm conviction. Defendant appeals as of right. We affirm.

Complainant testified that he was sitting in his car when a person later identified as defendant rode a bicycle past the car. Defendant reappeared at the driver's window and pointed a gun at complainant's head. Complainant stated that defendant's actions placed him in fear. Complainant, who as a police officer is authorized to carry a weapon, shot at defendant. The driver's window was shattered; however, complainant could not determine whether his shots or any that defendant might have fired broke the window. Complainant found defendant wounded and lying on the ground at the rear of the car. Defense counsel impeached complainant's testimony with two prior inconsistent statements.

Defendant testified that when he approached complainant's car complainant began shooting at him without provocation. Defendant maintained that as he attempted to crawl away from the car, complainant continued to shoot at him. He denied carrying a gun on that evening, and denied telling the police that he carried a gun.

The trial court found defendant guilty of felonious assault and felony-firearm. The court observed that the case turned on the credibility of the witnesses, and found that complainant's testimony was more credible than that given by defendant.

* Circuit judge, sitting on the Court of Appeals by assignment.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the court was aware of the issues and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). We review a trial court's findings of fact for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999), *aff'd* by equal division 462 Mich 71; 611 NW2d 783 (2000).

The elements of felonious assault are: (1) an assault; (2) with a dangerous weapon; and (3) with the intent to place the victim in reasonable apprehension of an immediate battery. *People v Davis*, 216 Mich App 47, 53; 549 NW2d 1 (1996). An assault is an attempt to commit a battery or an unlawful act which places another person in reasonable apprehension of receiving an immediate battery. *People v Grant*, 211 Mich App 200, 202; 535 NW2d 581 (1995). The elements of felony-firearm are: (1) the defendant possessed a firearm; (2) during the commission of, or the attempt to commit, a felony. *Davis, supra*.

Defendant argues that the trial court clearly erred in making its findings of fact because it failed to consider that complainant's testimony was impeached. We disagree and affirm defendant's convictions. A trial court's findings of fact are sufficient if they reflect the court's awareness of the issues in the case and its correct application of the law. *Smith, supra*. A trial court, unlike a jury, is presumed to understand the law to be applied in the case. *People v Jones*, 168 Mich App 191, 194; 423 NW2d 614 (1988). The trial court's observation that the case turned on the issue of credibility, coupled with its finding that complainant's testimony was credible whereas defendant's was not, indicated that the trial court considered but rejected defendant's assertion that complainant's testimony was not worthy of belief due to the existence of prior inconsistent statements. The trial court was entitled to find complainant's trial testimony credible, notwithstanding the existence of prior inconsistent statements. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). No reversible error occurred. MCR 2.613.

The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's convictions. *Petrella, supra*. Complainant's testimony established that defendant pointed a gun, statutorily defined as a dangerous weapon, MCL 750.82, at him, and that this action placed him in fear of receiving an immediate battery. This evidence established the elements of felonious assault and felony-firearm. *Davis, supra; Grant, supra*.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Hilda R. Gage
/s/ Charles R. Miel